



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

March 15, 2006

VIA FAX (202-293-3411) and FIRST CLASS MAIL

Eric F. Kleinfeld, Esq.
Ryan, Phillips, Utrecht & MacKinnon
1133 Connecticut Ave., N.W.
Suite 300
Washington, D.C. 20036

RE: MURs 5607 and 5687
Socas for Congress and
Andrew T. O Dell, in his official
capacity as treasurer;
and James R. Socas

Dear Mr. Kleinfeld:

On March 10, 2006, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. §§ 441a-1(b)(1)(C)-(D) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 104.3(d), 400.21(b), 400.22(b) and 400.25. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

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Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran", with a long horizontal flourish extending to the right.

Lynn Y. Tran
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR: 5607
Socas for Congress and Andrew T. O'Dell)
in his official capacity as Treasurer; and)
James R. Socas)

CONCILIATION AGREEMENT

This matter originated with a complaint filed with the Federal Election Commission ("the Commission") by Frank Wolf and information ascertained by the Commission in the ordinary course of its supervisory responsibilities. The Commission found reason to believe Socas for Congress and Andrew T. O'Dell, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a-1(b)(1)(C), 441a-1(b)(1)(D), 434(b)(3)(E) and 11 C.F.R. §§ 400.21(b), 400.22(b) and 104.3(d) and that James R. Socas violated 2 U.S.C. §§ 441a-1(b)(1)(C), 441a-1(b)(1)(D) and 11 C.F.R. § 400.25.

NOW, THEREFORE, the Commission and Socas for Congress and Andrew T. O'Dell, in his official capacity as treasurer, and James R. Socas, ("the Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:

Background

1. Socas for Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

It is the authorized committee for James R. Socas, a candidate for the House of Representatives from the 10th Congressional District in Virginia in 2004.

2. Andrew T. O'Dell is the treasurer of Socas for Congress.

The Law

3. If a candidate for the United States House of Representatives makes an aggregate expenditure of personal funds with respect to an election in excess of \$350,000, the candidate's authorized committee shall file a notification within 24 hours of exceeding the \$350,000 threshold (FEC Form 10). 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b). Once the candidate has exceeded the threshold, notifications are also required for each additional expenditure of personal funds of \$10,000 or more in connection with the election. 2 U.S.C. § 441a-1(b)(1)(D); 11 C.F.R. § 400.22(b).

4. These notification must be filed with the Commission, with each candidate in the same election and with the national party of each such candidate. *See* 2 U.S.C. § 441a-1(b)(1)(F); 11 C.F.R. §§ 400.21(b) and 400.22(b).¹ Candidates are responsible for ensuring that FEC Form 10 is properly filed by their principal campaign committees. *See* 11 C.F.R. § 400.25.

¹ A candidate's personal expenditures could entitle his opponents to a threefold increase in the contribution limit under 2 U.S.C. § 441a(a)(1)(A)) and a waiver of the limits on coordinated party expenditures under 2 U.S.C. § 441a(d). *See* 2 U.S.C. § 441a-1(a)(1); 11 C.F.R. § 400.41. Candidates are entitled to higher limits when the "opposition personal funds amount" exceeds \$350,000. The opposition personal funds amount is distinct from the threshold reporting amount of \$350,000 because it takes into account the personal funds expenditures of the other candidates and, depending on the date of calculation, may also take into account the gross receipts of both candidates. 2 U.S.C. § 441a-1(a)(2); 11 C.F.R. § 400.10. A candidate with a significant "gross receipts advantage" is less likely to qualify for the higher limits. *See* 2 U.S.C. § 441a-1(a)(2)(B)(ii); 11 C.F.R. § 400.10. Similarly, a

5. Each Form 10 filed with the Commission must include the date and amount of each expenditure from personal funds since the last notification and the total amount of expenditures from personal funds from the beginning of the election cycle to the date of the expenditure that triggered the notification. *See* 2 U.S.C. § 441a-1(b)(1)(E), 11 C.F.R. §§ 400.24(b) and 400.23.

6. A committee is required to report each person who makes a loan to the committee, any endorser or guarantor of the loan along with the date of value of such a loan. *See* 2 U.S.C. § 434(b)(3)(E). Each loan made or received by the committee must be disclosed by filing a Schedule C. *See* 11 C.F.R. § 104.3(d).

The Facts

7. Mr. Socas declared his candidacy with the Commission on April 13, 2004, filing an FEC Form 2 Statement of Candidacy, which declared that he did not anticipate spending any personal funds over the \$350,000 threshold. Mr. Socas was unopposed for the Democratic nomination. Between April 1, 2004 and October 13, 2004, Mr. Socas expended \$347,000 in personal funds on his general election campaign.²

8. The Reports and Analysis Division ("RAD") sent a letter to the Committee on March 17, 2005 asking the Committee whether the candidate used personal funds or borrowed money from a lending institution for the \$43,000 loan made on September 29, 2004. The Committee has never clarified the source of the September 29, 2004 loan.

candidate seeking higher limits may be limited by the amount of personal funds that he or she expended. *See* 11 C.F.R. § 400.10.

² Mr. Socas made contributions to the Committee designated for the general election of \$2,000 on April 13, 2004 and \$33,300 on May 1, 2004. He made loans of \$141,000 on June 29, 2004, \$43,000 on September 29, 2004, \$65,000 on October 12, 2004 and \$62,700 on October 13, 2004.

9. Mr. Socas made a \$150,000 loan to the Committee on October 25, 2004, raising his total expenditures of personal funds with respect to the general election to \$497,000. By spending more than \$350,000 in personal funds, the Committee was required to file FEC Form 10, Notification of Expenditures from Personal Funds, with the Commission and with Mr. Socas' opponent in the general election within 24 hours of the expenditure over the threshold amount, or by October 26, 2004. The Committee did not file a Form 10 with the Commission until ~~October 28, 2004, 48 hours after it was due.~~

10. A candidate's principal campaign committee is required to report within 48 hours any contribution of \$1,000 or more received between the 20th day and 48 hours before an election. *See* 2 U.S.C. § 434(a)(6)(A); 11 C.F.R. § 104.5(f). The provision of the Act that provides for the 48-hour notice states that "[t]he notification required under this paragraph shall be in addition to all other reporting requirements under this Act." 2 U.S.C. § 434(a)(6)(E). The Committee reported the \$150,000 loan by filing FEC Form 6, 48 Hour Notice of Contributions/Loans, on October 27, 2004. Respondents claim confusion regarding overlapping filing requirements and indicate that they were under the impression that during the 20-day period preceding an election, the 48 hour notice of contributions over \$1,000 took precedence over other filings.

11. The Committee also failed to submit a Schedule C for the \$150,000 loan made by Mr. Socas on October 25, 2004. RAD sent a letter to the Committee reminding the Committee of the requirement to file a Schedule C to support each loan made or guaranteed by the candidate and to provide the source of each loan made by the candidate to the Committee. The Committee has never clarified the source of the October 25, 2004 loan and has never filed a Schedule C for the loan.

12. After the general election, Mr. Socas made another loan to the Committee on November 17, 2004 in the amount of \$24,752. This loan is deemed to be in connection with the 2004 general election. Because Mr. Socas had already made expenditures of personal funds in excess of the \$350,000 threshold and the November 17, 2004 loan was for an expenditure over \$10,000, the Committee was obligated to file another FEC Form 10 with the Commission and Mr. Socas' opponent within 24 hours. RAD sent a letter reminding the Committee of the filing requirement on July 21, 2005. RAD had previously sent a letter to the Committee reminding it of the requirement to file a Schedule C to support each loan made or guaranteed by the candidate and to provide the source of each loan made by the candidate to the Committee. The Committee has never clarified the source of the November 17, 2004 loan and has never filed a Schedule C for the loan.

13. As part of this conciliation, respondents have clarified that all loans provided by the candidate were made from the personal funds of the candidate. Respondents state that the two Schedule Cs were inadvertently omitted from the Post-General Report.

V. 1. Respondents violated 2 U.S.C. § 441a-1(b)(1)(C) and 11 C.F.R. §§ 400.21(b), 400.22(b) and 400.25 by failing to timely file a notification that the candidate expended personal funds in excess of \$350,000 and failing to file a notification regarding additional expenditures of personal funds after passing the \$350,000 threshold.

2. Respondents violated 2 U.S.C. § 434(b) and 11 C.F.R. §104.3(d) by failing to file a Schedule C for either the October 25 or November 17, 2004 loans and failing to provide the source of the September 29, 2004, October 25, 2004 and November 17, 2004 loans until the time of this conciliation.

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VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of sixty-eight thousand two hundred and fifty dollars (\$68,250) pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from future violations of 2 U.S.C. § 441a-1(b)(1)(C), 2 U.S.C. § 441a-1(b)(1)(D), 11 C.F.R. § 400.21(b), 11 C.F.R. § 400.22(b), 11 C.F.R. § 400.25, and 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(d).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

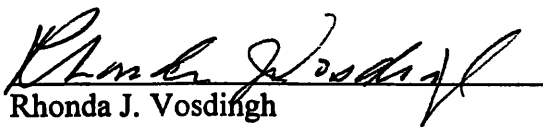
X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

Conciliation Agreement
MUR 5607
Socas for Congress, et al.

FOR THE COMMISSION:


Lawrence H. Norton
General Counsel

BY:


Rhonda J. Vosdigh
Associate General Counsel
for Enforcement

3/15/06
Date

FOR THE RESPONDENTS:


Eric F. Kleinfeld
Counsel for Respondents

2/23/06
Date

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